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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/805,782 | 03/22/2004 | Martin Balzer | LIP036 | 9929 |

7590

06/27/2006

Steven J. Grossman
Grossman, Tucker, Perreault & Pfleger, PLLC
55 South Commercial Street
Manchester, NH 03101

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| EXAMINER |
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LEYSON, JOSEPH S

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| ART UNIT | PAPER NUMBER |
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1722

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/805,782 | Applicant(s) BALZER ET AL. | |
| | Examiner Joseph Leyson | Art Unit 1722 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 8-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>8/10/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I, apparatus claims 1-7, in the reply filed on April 17, 2006 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 8-12 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse as mentioned above.

Oath/Declaration

3. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:
The specification to which the oath or declaration is directed has not been adequately identified. See MPEP § 602.

Neither declaration filed on March 22, 2004 and October 12, 2004 identifies the specification by indicating that the specification is attached hereto or was filed on another date as another application number, i.e., neither box was checked in each of the declarations to properly identify the specification.

Specification

4. The disclosure is objected to because of the following informalities: the title and abstract should be amended to reflect the election, i.e., only apparatus.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

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5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yoshikawa et al. (U.S. Patent 4,134,952) in view of Richter (U.S. Patent 6,764,639), Hirschberger (U.S. Patent 5,221,540) and applicant's admission (i.e., instant specification at p. 10, lines 21-22).

Yoshikawa et al. (U.S. Patent 4,134,952) disclose an extrusion head for the production of a tubular multilayer preform of softened thermoplastic material, including an annular passage arrangement including a plurality of annular passages (i.e., figs. 1-5) in mutually concentric relationship and forming mutually separate flow paths for material forming the various layers (materials A, B and C) of the multilayer preform, three feed paths for feeding plasticised plastic material from three extruders to the

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annular passage arrangement (i.e., col. 4, line 3, to col. 5, line 58), materials A and B combining into a combined annular passage which later combines with an annular passage containing material C, and an annular gap nozzle having an annular gap communicating with the annular passage arrangement (fig. 1), the annular passages communicating directly with the annular gap of the annular gap nozzle (fig. 1), the annular passage arrangement having first, second and third annular passages including an inner annular passage (material C) and first and second outer passages (material A and B), wherein the outer annular passages are brought together upstream of the opening of the inner annular passage into the annular gap nozzle (fig. 1). However, Yoshikawa et al. (U.S. Patent 4,134,952) does not disclose the perform with at least one viewing strip of translucent material extending in the extrusion direction, or at least one flow passage opening into an annular passage of the annular passage arrangement for introducing material forming the viewing strip, the flow passage opening upstream of the annular gap in the region of separation of the flow paths.

Richter (U.S. Patent 6,764,639) discloses an extrusion head for the production of a tubular multilayer preform of softened thermoplastic material with at least one viewing strip of translucent material extending in the extrusion direction, including an annular passage arrangement including a plurality of annular passages 12a, 13a, 14a in mutually concentric relationship and forming mutually separate flow paths for material forming the various layers of the multilayer perform, an annular piston 5 in which the annular passage arrangement is provided, three feed paths 9, 10, 11 for feeding plasticised plastic material from three extruders (col. 2, lines 35-40) to the annular

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passage arrangement, an annular gap nozzle 8 having an annular gap communicating with the annular passage arrangement (fig. 2), an annular storage space 16 operatively interposed between the annular passage arrangement and the annular gap of the annular gap nozzle 8, at least one flow passage opening 17 for introducing material forming the viewing strip, and a flow divider 18 arranged to effect division of the two outermost layers of the perform and to allow the infeed of the viewing material as a strip into the two outermost layers (i.e., col. 3, lines 3-26).

Hirschberger (U.S. Patent 5,221,540) discloses an extrusion head including an annular passage 30, a flow passage opening 50 into the annular passage 30 for introducing a material to form a viewing strip, and a flow divider 56 operable to effect complete division in the axial direction of an extrudate flowing through the annular passage (i.e., figs. 1-3).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the combined annular passage (two outermost layers) of Yoshikawa et al. (U.S. Patent 4,134,952) with the flow passage and flow divider of Hirschberger (U.S. Patent 5,221,540) because such a modification would enable introduction of a material to form a viewing strip as disclosed by Hirschberger (U.S. Patent 5,221,540) and because Richter (U.S. Patent 6,764,639) discloses that a flow passage and a flow divider can be used to introduce a viewing strip into the two outermost layers. As to the storage space and annular piston as recited by the respective instant claims, it would have been further obvious to artisan of ordinary skill to incorporate such means because such means are well known and conventional in the

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art as disclosed by Richter (U.S. Patent 6,764,639: cols. 1-2) for enabling an extrusion head to be used in blow molding equipment and because applicant admits that such means are "generally known".

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shapler (U.S. Patent 4,802,833), McGill et al. (U.S. Patent 4,874,305), Shapler et al. (U.S. Patent 4,890,994) and Hirschberger (U.S. Patent 5,204,120).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Leyson whose telephone number is (571) 272-5061. The examiner can normally be reached on M-F 9AM-5:30PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gupta Yogendra can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JK

JL


ROBERT DAVIS
PRIMARY EXAMINER
GROUP 1300-1700

6/25/06